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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,767	06/04/2001	Walter Ameling	7163-19	2333
21324	7590	03/31/2005	EXAMINER	
HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076			SHAW, SHAWNA JEANNINE	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/873,767	Applicant(s) AMELING ET AL. <span style="float: right;">ED</span>	
	Examiner Shawna J. Shaw	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-13, 15-24, 30, 38, 43-45, 47-56 and 58-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-13, 15-24, 30, 38, 43-45, 47-56 and 58-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-3, 6-13, 15-24, 30, 38, 43-56 and 58-60 have been considered but are moot in view of the new ground(s) of rejection.

Applicants' remarks and amendments filed 1/24/2005 have overcome the previous rejections under 35 USC 112 and notes applicants' acknowledgement that fixation of a working catheter in the body is generally well known in the art (p. 16 of remarks filed 1/24/2005).

The examiner also takes note that there is no structural distinction as far as "a single lead working catheter . . . adapted to be fixedly implantable in a body and that carries electrodes adapted to be in electrical communication with a cardiac pacemaker or defibrillator" between the cited prior art and the illustrated present invention.

### ***Claim Objections***

2. Claims 1, 52, 56 and 58-60 are objected to because of the following informalities: It is not exactly clear what applicant means by a "single lead working catheter." The examiner is unable to find any reference to the word "lead" in the specification. The examiner understands from the specification and drawings that the "single lead" working catheter (10) of the present invention contains separate reference elements (4a-n) as well as independently operable electrodes (5) and (11) (p. 15 lines 15-17 - implying that the electrodes themselves are controlled by individual leads). Thus, for examination purposes, a "single lead working catheter" has been construed to mean, in accordance

with the figures, a continuous, or non-basket, working catheter. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6-10, 12, 13, 15-19, 22-24, 30, 38, 43-45, 47, 50-56 and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al. of record in view of Abela et al.

Regarding the above claims, Willis et al. now differ from the claimed invention in that asymmetrical arrangement of the working catheter reference units (e.g., 38 and 90) is not specifically addressed. [The examiner again notes that Willis et al. teach wherein the working catheters may function as reference catheters and vice versa (col. 5 lines

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20-26)]. Abela et al. generally demonstrate that an asymmetrical (e.g., non-coplanar, col. 5 lines 63-65) arrangement of reference units (124F, 124S, 124T, see figures 4 and 5) on a catheter is known and provides position and orientation information in more than six degrees of freedom as well as redundancy for greater accuracy (col. 9 line 63 – col. 10 line 3). It would have therefore been obvious at the time the invention was made to a person of ordinary skill in the art to asymmetrically arrange the reference units (e.g., 38 and 90) of Willis et al. in order to provide position and orientation information in more degrees of freedom as well as improve positional redundancy and accuracy as taught by Abela et al. and as is known in the art.

4. Claims 11, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al. of record in view of Vesely et al. or Ferre et al. as applied in paper number 10212004 and further in view of Abela et al. as applied to claim 1 above.

5. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al. of record in view of Lundquist et al. of record as applied in paper number 10212004 and further in view of Abela et al. as applied to claim 1 above.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawna J. Shaw whose telephone number is (571) 272-4743. The examiner can normally be reached on 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Shawna J. Shaw  
Primary Examiner  
Art Unit: 3737  
03/25/2005